IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2847 OF 2004

Mr. S.N.V. Naik ... Petitioner

Versus

The Disciplinary Authority ... Respondents

Mr. Sunil V. Chaubal for Petitioner.

Mr. Amit Jamsandekar i/by D.H. Law Associates for R. Nos. 1 and 2.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED: NOVEMBER 21, 2006

P.C.:

. Rule. Heard forthwith.

. In the instant case, the Petitioner was issued chargesheet of the incident that happened on 20.12.1999. From the said incident, it was alleged that the Petitioner is guilty of five acts of misconducts. The Enquiry Officer in his enquiry report held that the only charge No. 1 is proved namely negligence of work in performing duties and held the other charges as not proved. The report of the Enquiry Officer was made available to the Petitioner who submitted his reply to the same on 16.6.2001. The Disciplinary Authority thereafter by its decision dated 18.6.2001 disagreed with the enquiry Officer in so far as Charge Nos. 3 and 5 are concerned and held that they were also proved.

The Disciplinary Authority concurred with the findings in so far as charge No. 1 is concerned. The Petitioner was called upon to give his say and to appear before the Disciplinary Authority.. Thereafter by order dated 8.7.2001 the Disciplinary Authority went on to impose punishment in respect of each of the charges and not cumulative punishment in respect of the chargesheet arising out of the incident that happened on 20.12.1999. We need not refer to the subsequent acts.

. The question is whether it was open to the Disciplinary Authority in respect of the incident which arose on 20.12.1999, from which according to Respondent the Petitioner had committed five acts of misconduct and according to the Disciplinary Authority three charges were proved to impose punishment and as done by the Enquiry Officer. In our opinion this will be contrary to the well known rules. It is not a case of two different chargesheets. This is a case of one chargesheet in respect of one incident. In the light of that it was not open to the Disciplinary Authority to impose punishment as presently imposed.

. Considering that, the impugned order of 18.6.2001 is set aside. The matter is remanded back to the Respondent No. 1 with a direction that after giving

opportunity to the Petitioner to pass appropriate orders in terms of the regulations and or rules in force. The entire exercise to be completed within twelve weeks. Consequent of the order of the Disciplinary Authority being set aside, the order of the Appellate Authority is also set aside. Rule made partly absolute. No order as to costs.

(ANOOP V. MOHTA,J.) **(F.I.REBELLO, J.)**